

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MICHAEL T. WILSON

Plaintiff,

v.

MICHELLE PHERELL, ET AL.

Defendants.

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Civil Action No.

13-61

JURY TRIAL DEMAND

**ANSWER AND AFFIRMATIVES DEFENSES OF
THE CITY OF PHILADELPHIA**

Defendant, The City of Philadelphia, by and through its undersigned counsel, John J. Coyle, Assistant City Solicitor, hereby file an Answer to the Plaintiff's Complaint, together with Affirmative Defenses.

All averments, allegations, and statements of fact set forth in Plaintiff's complaint are **DENIED**. The City of Philadelphia, its officials, employees, and/or agents have not violated Plaintiff's constitutional or civil rights. All of the alleged facts contained in Plaintiff's complaint are untrue, inaccurate, misleading, and/or the Answering Defendants are without sufficient knowledge or information to form a belief as to their truthfulness. Strict proof thereof, if relevant, is demanded at the trial of this matter. Plaintiff's complaint also contains conclusions of law to which the Federal Rules of Civil Procedure require no response.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The plaintiff's federal claims, in whole or in part, fail to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The plaintiff's claims are barred by the doctrine of qualified immunity because, at all times material hereto, the individual defendants were carrying out their duties in a proper and lawful manner, and in the exercise of good faith.

THIRD AFFIRMATIVE DEFENSE

The plaintiff's claims are barred, in whole or in part, insofar as Answering Defendants' purported actions or omissions were not the proximate cause of any alleged injury, loss, or damage incurred by the plaintiff.

FOURTH AFFIRMATIVE DEFENSE

The plaintiff's claims are barred, in whole or in part, to the extent that he has failed to take reasonable measures to mitigate any or all damages.

FIFTH AFFIRMATIVE DEFENSE

The plaintiff's claims are barred, in whole or in part, by his failure to comply with the provisions of the Prison Litigation Reform Act of 1995 ("PLRA"), 42 U.S.C. § 1997e(a), including but not limited to, the provisions requiring exhaustion of all administrative remedies before commencing a federal suit and physical injury requirement of 1997(e).

SIXTH AFFIRMATIVE DEFENSE

The plaintiff's claims are barred, in whole or in part, because the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc-1 et seq. does not apply to the City of Philadelphia's Philadelphia Prison System or the employees named herein.

WHEREFORE, Answering Defendants deny they are liable to the Plaintiff and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.

Respectfully Submitted,

/s/ John J. Coyle
John J. Coyle, Esq.
City of Philadelphia Law Department
Civil Rights Unit
1515 Arch Street, 14th Floor
Philadelphia, PA 19102
(215) 683-5434

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CERTIFICATE OF SERVICE

I certify that on the date listed below, the foregoing Answer and Affirmative Defenses of Defendants to Plaintiff's Complaint was served via first class mail upon the following:

MICHAEL T. WILSON
Prison ID No. 651336
8001 State Road, Philadelphia PA 19136
Pro Se Plaintiff.

Date: March 7, 2013

/s/ John J. Coyle
John J. Coyle, Esq.
City of Philadelphia Law Department
Civil Rights Unit
1515 Arch Street, 14th Floor
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